

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD<sup>1</sup>  
REGION 32

TELEMUNDO OF NORTHERN CALIFORNIA,  
INC., FOR TELEVISION STATION  
KSTS-TV

Employer

and

CAROLINA NUNEZ, AN INDIVIDUAL  
Petitioner

Case 32-RD-1440

and

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, LOCAL  
UNION 45, AFL-CIO

Union

**REPORT ON CHALLENGED BALLOTS  
AND NOTICE OF HEARING**

Acting pursuant to Section 102.69 of the Board's Rules and Regulations, Series 8, as amended, the undersigned has caused an investigation of the challenged ballots in this matter to be conducted and hereby sets all the challenged ballots for hearing for the reasons set forth below:

**The Petition**

Pursuant to a Stipulation to Set Aside Election and Conduct Re-run Election Agreement approved on May 25, 2004<sup>2</sup>, an election by secret ballot was conducted on June 10, in the following unit:

All full-time and regular part-time producers, directors, reporters, writers, technicians, photographers, editors and production assistants and also including

---

<sup>1</sup> Hereinafter referred to as the Board.

<sup>2</sup> All dates hereinafter refer to calendar year 2004, unless otherwise noted.

master control technicians, engineering and maintenance technicians, ENG/commercial photographers, ENG/commercial editors and studio technicians employed by Television Station KSTS-TV, the Employer's San Jose, CA television station facility. Excluded from the unit were news producers, assignment editors, all other employees, guards and supervisors as defined in the Act.

The Tally of Ballots served on the parties at the conclusion of the election showed the following results:

Approximate number of eligible voters.....	30
Number of void ballots.....	0
Number of votes cast for Petitioner.....	14
Number of votes against participating labor organization.....	16
Number of valid votes counted.....	30
Number of challenged ballots.....	3
Valid votes counted plus challenged ballots.....	33

Challenges are thus sufficient in number to affect the results of the election. No objections to the election were filed.

### **The Challenged Ballots**

The Board challenged the ballots of Edwin Alvarado, Elias Gonzalez, and Francisco del Rosario because their names did not appear on the voting eligibility list. The Employer contends that because Alvarado and Gonzalez are freelance photographers, and Del Rosario is a freelance production and studio technician, they are neither full-time nor part-time employees covered by the unit description in the Stipulated Election Agreement or the parties' collective bargaining agreement, and therefore, are ineligible to vote in the election. The Union contends that Alvarado, Gonzalez, and del Rosario are members of the bargaining unit, and thus eligible to vote in the election, because they regularly perform work covered under the parties' collective bargaining agreement and appear on the schedule.

The investigation disclosed that the challenges to the ballots of the above-named employees raise material and substantial issues of fact and law that can best be resolved by a hearing. Accordingly,

### **Notice of Hearing**

**IT IS HEREBY ORDERED** that a hearing on the challenged ballots be held before a duly designated Hearing Officer of the National Labor Relations Board.

**IT IS FURTHER ORDERED** that the hearing officer designated for the purpose of conducting the hearing shall prepare and cause to be served upon the parties a report containing resolutions of the credibility of witnesses, findings of fact, and recommendations to the Board as to the disposition of said issues. Within fourteen (14) days from the issuance of said report, any party may file with the Board an original and one (1) copy of exceptions to such report, with supporting brief, if desired. Immediately upon the filing of such exceptions, the party filing the same shall serve a copy thereof, together with a copy of any brief filed, on the other party to the proceeding and with the undersigned. If no exceptions are filed to such report, the Board, upon the expiration of the period for filing exceptions, may decide the matter forthwith upon the record or may make other disposition of the case.

**PLEASE TAKE NOTICE** that on July 14, 2004, at 9:00 a.m. PDST, at a the Oakland's Regional Office located at 1301 Clay Street, Suite 300N, Oakland, California, a hearing pursuant to Section 102.69 of the Board's Rules and Regulations will be conducted before a hearing officer of the National Labor Relations Board upon the aforesaid challenges, at which time and place the parties will have the right to appear in person, or otherwise, to give testimony and to examine and cross-examine witnesses with respect to said matters.

Dated at Oakland, California, this 6th day of July, 2004.

/s/ Michael Leong  
Michael Leong, Acting Regional Director  
National Labor Relations Board  
Region 32  
1301 Clay Street, Suite 300N  
Oakland, California 94612-5211